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July 31, 2014

Ms. Jocelyn Boyd
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210

Re: South Carolina Telephone Coalition Petition to Modify Alternative
Regulation Plans Filed Pursuant to S. C. Code Ann. 58-9-576(B) to
Take Into Account Recent Action by the Federal Communications
Commission
Docket No. 2013-55-C

Dear Ms. Boyd:

Enclosed for filing on behalf of the South Carolina Telephone Coalition
(SCTC) please find SCTC's Return To SC Cable Television Association's
Petition For Rehearing And/Or Reconsideration in the above-referenced matter.
By copy of this letter and Certificate of Service all parties of record will receive
a copy of SCTC's Return by U. S. mail.

Thank you for your assistance

Very truly yours,

McNAIR LAW FIRM, P.A.


Margaret M. Fox

MMF:rwm
Enclosures

cc: Parties of Record

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In Re: South Carolina Telephone Coalition Petition
to Modify Alternative Regulation Plans Filed
Pursuant to S.C. Code Ann. § 58-9-576(B) to
Take Into Account Recent Action by the Federal
Communications Commission

The South Carolina Telephone Coalition (“SCTC”) respectfully submits this return to the Petition of the South Carolina Cable Television Association (“SCCTA”) for rehearing and/or reconsideration of Order Nos. 2014-517 and 2013-908 issued by the Public Service Commission of South Carolina (“Commission”) in the above-captioned proceeding.

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ARGUMENT

A. SCCTA's Petition for Rehearing and/or Reconsideration of Order No. 2014-517 Should be Denied

In support of its request for rehearing and/or reconsideration of the Commission's order denying SCCTA's motion to reduce State USF payments, SCCTA presents its arguments A, B, and C. See Petition at pp. 2-6. Arguments A and B simply restate the arguments presented to the Commission at oral argument and, thus, present no new information that would lead the Commission to a different result. The Commission thoroughly addressed and expressly rejected each of those arguments in Order No. 2014-517.

In Argument C of its petition, SCCTA alleges that the Commission's Order No. 2014-517 erroneously relied on matters outside the record before the Commission. Specifically, SCCTA states: "Order No. 2014-517 finds that implicit support has dropped dramatically due to changes in federal USF support and available industry statistics regarding the reduction in access lines. There was nothing in the record before the Commission that supported reliance on these matters." Petition at p. 5.

First, while the Commission made certain statements in the "Discussion" portion of its Order regarding loss of implicit support and reduction in access lines, it is not clear that the Commission made a finding in this regard or "relied on" this information in reaching its conclusion.

The critical findings and conclusions in Order No. 2014-517 are not dependent on the fact that implicit support is declining. The Commission found "[t]here is no requirement that State USF be reduced when a company increases its basic local service rates to meet a rate floor established by the [FCC], either in state law or in prior Commission orders. In fact, state law expressly allows alternatively-regulated companies to adjust rates for basic local exchange

telephone service, subject to certain limitations.” Order On 2014-517 at p. 15, Findings and Conclusions ¶ 5 (citation omitted). The Commission went on to conclude that “allowing alternatively-regulated companies to adjust basic local residential service rates to the national average rates to enable those companies to retain federal funding is in the public interest and is consistent with the Telecommunications Act of 1996,” and that “allowing companies the flexibility to retain federal funding on the one hand, while taking state funding away on the other, would not be in the public interest and would not further the goals of universal service.” *Id.* at pp. 15-16, Findings and Conclusions ¶ 7. These findings and conclusions stand on their own as the basis for the Commission’s ruling.

Furthermore, the fact that implicit support and access lines are declining is not a “finding” as much as it is information that is within the experience and specialized knowledge of the Commission, and/or information that can be found in relevant orders of the Federal Communications Commission (“FCC”). In its discussion of the matter before it, the Commission pointed out that SCCTA’s argument erroneously assumes that implicit support has remained static over the last 12 years. *See* Order No. 2014-517 at p. 12. The Commission cites to a recent order of the FCC to say “[w]ith respect to intercarrier compensation alone [one source of implicit support], the FCC’s USF-ICC Reform Order required SCTC companies to ... move it to the Connect America Fund (“CAF”), with the requirement that the support be reduced by 5% each year.” Order No. 2014-517 at p. 12, *citing* the FCC’s USF-ICC Reform Order.¹

¹ Report and Order and Further Notice of Proposed Rulemaking, Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 96-45; WT Docket No. 10-208; FCC 11-161, rel. Nov. 18, 2011 (“USF-ICC Reform Order”), at ¶899.

The Commission is also well aware that incumbent LECs have experienced access line loss as a result of local markets being opened up to competition. An agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence. See S.C. Code Ann. §1-23-330(4). It is not necessary to have evidence in the record of matters that are obvious on their face. See Matter of Harry C., 280 S.C. 308, 309-310 (1984) (“[O]ur courts are not required to be ignorant of a fact which is generally and reliably established merely because evidence of the fact is not offered”) (quoting State v. Newton, 204 S.E.2d 724, 725 (N.C. App. 1974)). As the Commission stated, “the suggestion that implicit support has remained static is contrary to every available industry statistic and trend. Incumbent local exchange access lines – and the revenues that go along with them – are declining precipitously as consumers migrate to competitive services, including wireless service.” Order No. 2014-517 at p. 13. Such information is generally and reliably established, is clearly within the knowledge and expertise of the Commission, and may be considered in rendering a decision.

B. SCCTA's Petition for Rehearing and/or Reconsideration of Order No. 2013-908 Should be Denied

SCCTA also argues that the Commission erred in failing to take judicial notice of the ILEC annual reports and surrogate cost information that were filed with the Commission or with the South Carolina Office of Regulatory Staff outside of the instant proceeding. See Petition at Argument D, pp. 6-9.

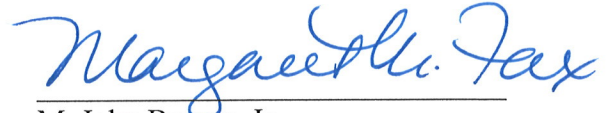
The Commission properly found that the request to take judicial notice was untimely under Commission Rule 103-846(C). SCCTA did not make its request for judicial notice until after the Commission had already heard the case and the matter was pending. The Commission's interpretation of its own regulations is entitled to great deference. See Total Environmental Solutions, Inc. v. South Carolina Public Service Commission, 351 S.C. 175 (2002). The

Commission's interpretation of the regulation is consistent with prior Commission rulings. See Order No. 2012-86 in Docket No. 2011-317-WS. Additionally, the Commission's rule is consistent with general civil practice. See Law Firm of Paul L. Erickson, P.A. v. Boykin, 375 S.C. 204 (2007) (S.C. App.), (Court of Appeals affirmed circuit court's denial of a motion for judicial notice of documents that were submitted after the hearing, stating: "Given the dispute in this case and the time at which the documents were submitted and the request made, we find the doctrine of judicial notice is not properly applicable to these documents."), reversed on other grounds, 383 S.C. 497 (2009).

While untimeliness alone was a sufficient reason to deny the request, the Commission also properly ruled that SCCTA had failed to make a sufficient showing of the relevance of the documents to this proceeding. The decision to take judicial notice or not was within the Commission's discretion. See Commission Rule 103-846(C) ("Notice may be taken of judicially cognizable facts.") (emphasis added). SCCTA's argument regarding relevance was presented previously and was rejected by the Commission in Order No. 2013-908. SCCTA presents no new information in its Petition that would lead the Commission to a different result.

WHEREFORE, for the reasons stated above, the South Carolina Telephone Coalition respectfully requests that the Commission deny the SCCTA's Petition for Rehearing and/or Reconsideration of Order Nos. 2014-517 and 2013-908, and grant such other relief as is just and proper.

Respectfully Submitted,



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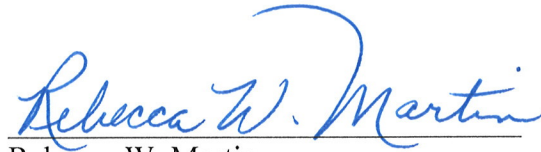
DOCKET NO. 2013 - 55 - C

CERTIFICATE OF SERVICE

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